

The Privatization/Competition Manual



*Answers to Some of the Most
Frequently Asked Questions*



THE PRIVATIZATION/COMPETITION MANUAL

Answers to Some of the Most Frequently Asked Questions

© 1998 Commonwealth of Virginia, Commonwealth Competition Council

About the Council

The Commonwealth Competition Council was created by the Virginia Government Competition Act of 1995 (Title 9, Chapter 45, *Code of Virginia*). The Council is an independent agency within the executive branch of government. The Council is composed of employees of executive branch agencies appointed by the Governor; members of the General Assembly appointed by the Speaker of the House and the Senate Committee on Privileges and Elections; and private sector members appointed by the Governor, the Speaker of the House, and the Senate Committee on Privileges and Elections.

The Council has a multiple mission and is charged with the responsibility to:

- Examine and promote methods of providing a portion or all of select government-provided or government-produced programs and services through the private sector by a competitive contracting program;
- Advise the Governor, the General Assembly, the Small Business Commission, and executive branch agencies of the Council's findings and recommendations;
- Develop an institutional framework for a statewide competitive program to encourage innovation and competition within state government;
- Establish a system to encourage the use of feasibility studies and innovation to determine where competition can reduce government costs without harming the public;
- Monitor the products and services of state agencies to bring an element of competition and to ensure a spirit of innovation and entrepreneurship to compete with the private sector;
- Advocate and develop the implementation of a competitive program for state entities to ensure competition for the provision or production of government services from both public and private sector entities;
- Seek, evaluate, and recommend effective public-private partnerships;
- Establish approval, planning, and reporting processes required to carry out the functions of the Council including directing a state agency to perform a public-private performance analysis when the Council receives a qualifying unsolicited proposal from a private entity;
- Determine the privatization/competition potential of a program or activity; conduct cost-benefit and public-private performance analyses;
- Devise evaluation criteria to be used in conducting performance reviews of any program or activity which is subject to a privatization recommendation;
- Make its services available to any political subdivision of the Commonwealth;
- Review the practices of government agencies and nonprofit organizations which may constitute inappropriate competition with private enterprise; develop proposals for preserving the traditional role of private enterprise; encourage the expansion of new private enterprise; and monitor inappropriate competition by nonprofit organizations.

The Council employs various tools to carry out its mission including a computerized public-private performance analysis program, a computerized cost comparison program ("**COMPETE**"), statewide surveys with state entities, and an Annual Report to the Governor, the General Assembly, the Small Business Commission, and executive branch agencies.

The Council Embraces the Spirit of Opportunity

Contents

Introduction.....	1
Questions and Answers About Privatization/Competition ¹	3
Asset Sale.....	3
Build-Lease-Transfer (BLT)	3
Build-Operate-Transfer (BOT)	4
Build-Own-Operate (BOO).....	4
Build-Own-Operate-Transfer (BOOT)	5
Build-Transfer-Operator (BTO).....	5
Buy-Build-Operate (BBO).....	6
Change in Use	6
Commercial Activity.....	7
Commercial Source.....	7
Competition Process	7
Concession Benefits and Concession Periods.....	7
Contracting Out.....	8
Consolidation.....	8
Conversion to Contract	9
Conversion from Contract.....	9
Corporatization	9
Cost Comparison Program (“COMPETE”)	10
Customerizing	10
Design-Build-Operate (DBO)	10
Development Rights.....	11
Devolution	11
Employee Stock Ownership Plan (ESOP)	11
Franchising.....	12
Fully Allocated Cost	13
Government/Quasi-Government Corporations	13
Government-Owned Contractor-Operated (GOCO).....	14
Inherently Governmental Activity	14
Lease-Develop-Operate (LDO).....	14
Lease-Purchase Financing.....	15
Leveraged Leasing	15
Make or Buy	16
Managed Competition.....	17
Most Efficient Organization (MEO).....	17
Mining the Balance Sheet	17
Natural Monopoly.....	18
Overhead	18

Contents

Outsourcing.....	19
Performance-Based Contracting Incentives.....	19
Performance Measures.....	19
Performance Standards	20
Performance Work Statement (PWS)	20
Private Activity Bonds (PABs).....	21
Privatization/Competition	21
Public Purpose Debt.....	21
Public-Local Government Partnership.....	22
Public-Private Partnership	22
Public-Private Performance Analysis	23
Qualified Private Activity Bonds (PABs).....	23
Quality Assurance.....	24
Qualified Use	24
Regulation of User Charges and Rates of Return	24
Risk Unbundling	25
Sale-Leaseback	25
Service Contract.....	25
Service Shedding	26
Spin-Off	26
State Agency	27
Third Sector	27
Unsolicited Proposal	27
Voluntary Sector	28
Vouchers	28
Wraparound Addition	28

APPENDICES:

A. Commercial Activities - Competitive Government Opportunities.....	29
B. Competition Process.....	40
C. Public-Private Performance Analysis.....	42
D. Public-Private Performance Analysis - Compendium of Options.....	50
E. Cost Comparison Program ("COMPETE")	52

¹ The terms and definitions in this manual were compiled using a variety of documents from state, federal and other resources. Some of the definitions are articulated in other Virginia agency manuals such as the Agency Procurement and Surplus Property Manual, Construction and Professional Services Manual for Architects and Engineers, and budget instructions by the Department of Planning & Budget.

THE PRIVATIZATION/COMPETITION MANUAL

Answers to Some of the Most Frequently Asked Questions

Introduction

Today, it seems that many discussions involving government services or public projects sooner or later turn to the subject of privatization and competition and the issues they raise. Both states and large cities report saving millions of dollars through privatization and competition of a variety of government functions ranging from private prisons, the sale of assets, to providing nursing home care. Even small towns and county governments throughout the United States are seriously considering competing the management of everything from public libraries, airport management, to public works facilities.

What is privatization/competition anyway? Is it a new development? And what forces are driving it? It is a concept that covers a wide variety of approaches to involving both the public and private sector in the delivery of services and the development of projects intended to benefit the general public. It applies to everything from outright turnover of government functions to the private sector (getting out of the business), contracting out the service with continued government oversight, managed competition between the government and the private sector (in which the most efficient organization competes and wins), public-private partnerships, to employee stock ownership plans (ESOPs). The determination of the most efficient method to provide the service normally starts with performing a public-private performance analysis. A copy of a public-private performance analysis is included in the appendices.

The question and answer section of this manual explains specific terms related to privatization/competition (listed alphabetically in **bold type** and cross-referenced in *italic type*). It is generally useful to consider privatization/competition techniques as falling into one of four broad categories, or some combination of them. These categories include:

- , Transferring ownership of government assets to the private sector.
- , Contracting with private sector firms to provide services previously provided by the government.
- , Involving the private sector in the financing and development of public capital improvement projects as a substitute for purely public financing through taxes and bonds.
- , Competition when two or more parties independently attempt to secure the business of a customer by offering the most favorable terms or the highest quality service or product. Competition in relation to government activities is usually categorized in three ways:
 - (1) managed competition in which public-sector organizations compete with the private sector to conduct public-sector business;
 - (2) public versus public, in which public-sector organizations compete among themselves to conduct public-sector business; and
 - (3) private versus private, in which private-sector organizations compete among themselves to conduct public-sector business.

Introduction

Historically speaking, privatization/competition in the United States is far from a new development. Private sector involvement in major public improvement projects occurred in the building of 19th century projects like the Erie Canal and the transcontinental railroad. Taking the long view, the current trend toward privatization/competition is more like the swing of a pendulum than a radical change in direction. Typically, the forces behind the popularity of privatization/competition are primarily financial and philosophical. Financially, governments at all levels struggle with the demand to provide services without increasing taxes. Philosophically, the proponents of privatization/competition agree with the pragmatic financial considerations, but they also support privatization/competition when government budgets are balanced.

The philosophical argument for privatization/competition is based on two main premises. The first is that the free market offers benefits not found in the public sector, such as, relative ease of innovation, quicker decision-making, and the general efficiency that results from market discipline and the need to compete for business. With the global economy, American enterprise has learned that effective competition improves productivity. The second is that these benefits more than offset any dangers of fraud or predatory commercial practices that the competitive free market creates. In fact, these free market tendencies are considered to be beneficial because they actually threaten the destruction of businesses that do not provide the best value for their customers and thereby encourage creativity and economical customer service.

Based on these philosophical points of view, privatization/competition is a good idea even with balanced budgets, since taxpayers are entitled to get the best value for their tax dollars. The bottom line on privatization/competition is: *"its purpose is public benefit, not private gain."*

The Council believes that the terms and examples in this manual will answer some of the most frequently asked questions about privatization/competition activities and processes.

April 1998
Richmond, Virginia

Questions and Answers About Privatization/Competition

— — —

Question: What is an **asset sale** approach to privatization/competition?

Answer: The state simply sells a publicly owned asset to the private sector in anticipation of achieving some or all of three key benefits:

- , An immediate infusion of cash into the state treasury as a result of the sale.
- , Long-term increases in state revenues as a result of the creation of a taxable asset, operation, or entity.
- , Increased efficiency or quality as a result of turning the asset over to private sector management.

Example: A municipality which owns and operates an airport needs to increase revenues and reduce expenditures in order to avoid an increase in taxes. The governing body votes to sell the airport to the private sector in order to raise money and reduce costs by obtaining cash from the sale, making the airport and its operations taxable, and eliminating the cost of its management and upkeep.

— — —

Question: What is a **build-lease-transfer (BLT)** transaction?

Answer: A build-lease-transfer transaction is a variation of a *lease-purchase financing* arrangement involving the construction of a capital improvement by a private developer who leases the facility to the public or private user after the completion of construction and ultimately transfers title to the user. This arrangement allows the public body to finance the purchase of the facility without having to go through the procedures associated with bond financing.

Example: The state engages a private developer to build a warehouse and maintenance facility. According to the terms of the agreement, the state rents the facility for several years before legal title is transferred.

— — —

Question: How do **build-operate-transfer (BOT)** projects work, and what are their advantages?

Answer: In a BOT project, the involvement of the private sector entity that builds the capital improvement does not end with the completion of construction and the making of final payment as it would in a conventional arrangement for public construction. Instead, the private sector builder is given a franchise which permits it to operate the new facility for a specified period. Transfer of legal title may occur at any time during the operations period, but ordinarily will remain with the private sector builder during the period of the franchise. During that time, the builder-operator is responsible for maintenance of the facility and is entitled to a financial return such as user fees. The opportunity for this additional return above and beyond what profit might be earned through the completion of the contract is a financial incentive which can make the project attractive enough for the private sector to provide all or part of the financing, allowing the state to avoid the need to raise funds.

Example: The Commonwealth of Virginia solicits bids on a BOT basis to build a new combined road and tunnel in the Hampton Roads area. A consortium of companies forms a new company which is awarded the project which includes a 30-year franchise agreement covering design, financing, construction, operations and maintenance of the facility. The local transit authority commits to lease the facility for the entire franchise period. Companies participating as shareholders in the franchisee are awarded contracts for major portions of the construction work. With the exception of the administrative costs associated with soliciting the bids and negotiating the contract, no public financing is required.

— — —

Question: How does a **build-own-operate (BOO)** transaction work?

Answer: In a BOO transaction, the contractor is engaged to construct and operate a facility without transferring ownership to the public sector. Legal title to the facility remains in the private sector, and there is no obligation for the private sector to purchase the facility or take title.

Example: A Social Services Department engages a private developer to finance, build, own, and operate a day-care facility in an area where private facilities are not available. Dependents of state employees are guaranteed preference in filling available openings at guaranteed rates, but the owner-operator may use excess capacity to care for dependents of the local population at market rates.

— — —

Question: How does a **build-own-operate-transfer (BOOT)** transaction differ from a BOT transaction?

Answer: A BOOT transaction is a special form of a *build-operate-transfer (BOT)* transaction in which the private builder-operator retains legal title to the facility until the completion of the franchise period.

— — —

Question: How do **build-transfer-operate (BTO)** projects work, and what are their advantages?

Answer: In a BTO project, the private sector entity builds the facility and transfers ownership to the state at the outset of the operations phase, immediately after the completion of construction, taking back a lease and a long-term contract to operate the facility. Operating revenue provides the required return on investment. Its advantages are similar to those offered by a *build-operate-transfer (BOT)* project, but the point of transfer of ownership occurs at the end of construction rather than at the end of the franchise period.

Example: The state hires a company formed by a group of private sector investors to develop and construct a toll bridge. After construction is complete, the state receives title, leases the bridge back to the bridge development company, and hires the company to operate the bridge and collect tolls for a specified period of time.

— — —

Question: What is a **buy-build-operate (BBO)** transaction?

Answer: A BBO transaction is a form of *asset sale* which includes a rehabilitation or expansion of an existing facility. The state sells the asset to a private sector entity which accomplishes the improvements that are necessary to operate the facility in a profitable manner.

Example: The state sells an office building to a private developer who rehabilitates the facility and leases it back to the state. The developer accrues whatever tax benefits accompany ownership of the property, the state has a new source of tax revenue, and the state avoids the costs and procedures associated with financing a new office building project.

— — —

Question: What are **change in use** rules, and how do they affect privatization?

Answer: Change in use rules are IRS rules which govern the possible loss of tax-exempt status for debt issued to finance construction of a publicly owned facility if the facility is acquired by or operated by the private sector. As such, they will affect the financial feasibility of private sector acquisition or operation of the asset. In February 1997, the IRS published Revenue Procedure 97-13 (Rev. Proc. 97-13) to set forth the latest rules which create a "safe harbor" so that a service contract will not result in a private use of a bond-financed facility. Rev. Proc. 97-13 supersedes all prior regulations in this area and is effective for contracts entered into, modified or extended after May 16, 1997.

The new rules provide a degree of certainty and specificity which has been missing from the public financial markets. The increase in the maximum permissible term for management contracts and the expansion of the number of projects able to access the change in rules will simplify the structuring process for many *public-private partnerships* and will make tax-exempt financing available for a greater number of projects.

Regulations and related revenue procedures regarding *change in use* rules are complex and legal counsel should be consulted regarding the procedures.

— — —

Question: What is the definition of a **commercial activity**?

Answer: Commercial activity means an activity performed by or for state government that is not an *inherently governmental activity* and that is or could be obtained from a commercial source. Commercial activities represent competitive government opportunities. Refer to the appendices for a general list of commercial activities.

— — —

Question: What is a **commercial source**?

Answer: A commercial source is any business or other private concern that is eligible for contract award in accordance with the Virginia Public Procurement Act.

— — —

Question: What is the Council's **competition process**?

Answer: The competition process is the process approved by the Commonwealth Competition Council to determine if a state function or service is a candidate for privatization/competition. Refer to the appendices for the steps in the Council's competition process.

— — —

Question: What are **concession benefits and concession periods**?

Answer: Concession benefits are rights to receive revenues or other benefits for a fixed period of time which provide incentives to the private sector to participate in financing a capital improvement project. Concession periods are the time limits which are imposed on the private parties for the enjoyment of the concession benefit before it reverts to the government. This is another term for *franchising*.

Example: The Commonwealth works with a corporation formed by a group of investors to develop new parking garage facilities in the Capitol Square. As part of the deal, the corporation is given the right to collect parking fees for a period of ten years.

— — —

Question: What is **contracting out**?

Answer: Contracting out is the state approach to providing publicly oriented services or accomplishing activities with a public purpose by contracting with independent private contractors to accomplish the task rather than using state employees. Contracting out is another term for *outsourcing*.

Example: A *state agency* which wants to lower its cost and improve delinquent tax collections solicits proposals from professional collection agencies to collect delinquent taxes owed to the state.

The Council's *competition process* is a method to evaluate whether contracting out is an effective method to perform the function.

— — —

Question: What does **consolidation** mean?

Answer: Consolidation represents a movement in which similar state functions or activities performed in several agencies are consolidated into one agency to lower costs and improve efficiency. This is sometimes referred to as insourcing.

Example: A *state agency* prints 500,000 documents on its mainframe laser printer for another state agency with volume expected to increase to nearly two million documents annually. Consolidating this work allows the second state agency to avoid a one-time outlay of significant funds for their own mainframe laser printer while maximizing the use of the first agency's printer. Subsequently, the second state agency determines that it is in its best interest for cost savings and efficiency to consolidate all its printing requirements with the first state agency.

— — —

Question: What is meant by the term **conversion to contract**?

Answer: A conversion to contract is the change of performance of a *commercial activity* from in-house performance by state employees to performance by a *commercial source*.

— — —

Question: What is meant by the term **conversion from contract**?

Answer: Conversion from contract means the change of a *commercial activity* from performance by contract with a *commercial source* to performance by state employees with state resources.

— — —

Question: Is **corporatization** the same thing as privatization?

Answer: Corporatization is one form of privatization. It is a method whereby a *state agency* or function is turned into a privately owned corporation through an *employee stock ownership plan (ESOP)* or other financial transaction such as an *asset sale* or a sale of stock which leads to private ownership of the “business” involved. Refer to *employee stock ownership plan (ESOP)* in this manual for further definition.

Example: A Department of Highways wishes to interject competition into its system for the maintenance of local roads. Instead of terminating all its road maintenance managers and crews and contracting out for all its road maintenance work, the department works with them to organize their own corporation which will compete with private firms for the work. Alternatively, the department may work with existing private firms to sell the maintenance system to the private sector and enter into an initial contract which will be recompleted by the department in later years.

— — —

Question: What is the **Cost Comparison Program (“COMPETE”)** and why should it be used?

Answer: The Cost Comparison Program (“COMPETE”), which is similar to activity-based costing, was designed and developed by the Commonwealth Competition Council to assist agencies and institutions in calculating both the *fully allocated cost* and unit cost of services and functions. “COMPETE”, which is a necessary step in the *competition process*, is an automated PC-based program that assists in the determination whether a service or function should remain in-house or be *outsourced*. Refer to the appendices for a sample copy of the Cost Comparison Program.

— — —

Question: What is **customerizing**?

Answer: Customerizing is a term referring to actions taken to help an organization provide better service to its customers. It is similar to the term *performance measures*.

Example: A police dispatch unit center works toward goals calling for a reduction in the amount of time required to respond to 911 calls.

— — —

Question: How do **design-build-operate (DBO)** projects work, and what are their advantages?

Answer: In a DBO project, a single contract is awarded for the design, construction, and operation of a capital improvement. Title to the facility remains with the state government. A design-build approach creates a single point of responsibility for design and construction and can speed project completion by making it easier to overlap the design and construction phases. The operations phase is normally handled by the state or awarded to the private sector under a separate operations and maintenance agreement.

— — —

Question: How can the sale of **development rights** facilitate privatization?

Answer: By selling development rights as part of a total project package, the state can raise funds from the private sector that can be used to develop capital improvements which can enhance the value of areas surrounding the project.

Example: The state intends to rehabilitate an intercity railroad station. In order to help finance the project, the state sells rights to develop property surrounding the location of the new station which will be built.

— — —

Question: Is **devolution** a form of privatization?

Answer: Devolution is not a form of privatization, although it could lead to privatization. It is the transfer of a function from a higher level of government to a lower level of government, usually from federal to state, although it could be from state to local.

Example: If the federal government were to stop managing job training programs and provide funds to the states through block grants intended to be used for the same purposes, some states might choose to privatize this new function by *contracting out* the block grants or to provide *vouchers* to trainees.

— — —

Question: What is an **employee stock ownership plan (ESOP)**?

Answer: An ESOP is a qualified employee benefit plan primarily used for retirement purposes. An ESOP is governed by the federal Employee Retirement Income Security Act (ERISA), which gave ESOPs statutory framework in 1974. ESOPs are a form of a stock bonus plan designed to make a broad spectrum of employees stockholders in the sponsoring company. An ESOP may be used whether the organization is already in the private sector or in the public sector, and is in the process of making the transition to private sector ownership.

When the ESOP technique is applied in the public sector, it is a form of privatization. ESOPs have been used as a means of privatizing government agencies in foreign countries. In the United States, ESOPs have been primarily used in restructuring private corporations, but have a role in providing government services. ESOPs are advocated as a means of improving performance of an organization by giving its employees a stake in the operation. Senate Document No. 12 (1998), is the ESOP study conducted by the Council. The study embraces ESOPs as a privatization/competition opportunity for performing government services.

Example: This is an actual example. When the U.S. Office of Personnel Management decided it was necessary to reduce the cost of its division performing background investigations, an implementation plan was developed to form a new private organization to serve the needs of its customers while providing financial stability and opportunity for its employees. This vision was converted to reality with the creation of US Investigations Services, Inc. (USIS), which commenced operations in July 1996. The 700 former federal employees now own the largest private investigations company in North America. In its new corporate form, the company is profitable, has significantly reduced the cost of investigations to its customers, and the value of employee stock increased over 10 fold in less than two years.

— — —

Question: What is **franchising**?

Answer: Franchising is the granting of a special privilege to conduct business operations in a particular market. In the context of privatization, it would involve a government grant to a private entity of a right to provide services or to build or operate a facility with a public purpose. Some degree of exclusivity must be conferred with the franchise in order for the private party to reasonably evaluate the potential levels of return offered by the project. This technique is also referred to as granting *concession benefits*.

Example: A Department of Public Works uses a *build-operate-transfer (BOT)* approach in the development of a highway intended to be operated as a toll road. The state grants the developer the exclusive right to collect tolls. As part of the franchising agreement, the state agrees not to open competing routes for a certain period of time.

— — —

Question: What does **fully allocated cost** mean and how does it relate to privatization/competition?

Answer: The fully allocated cost of performing a service or providing goods is the cost that includes all direct full-time and part-time personnel costs; materials; supplies; equipment purchases; capital and equipment depreciation cost; rent; maintenance and repairs; utilities; insurance; travel; operations overhead; and general and administrative overhead, all of which are defined in the Council's *Cost Comparison Program ("COMPETE")* user's manual. This cost is sometimes referred to as the true cost.

The development of the fully allocated cost is a necessary step in the *competition process*. Since governmental budgeting is developed on a cash basis and not an accrual basis, the budget cost does not reflect the full costs of performing government services. This full cost is required for informed comparison decisions with private sector costs to perform the service.

A sample copy of ("**COMPETE**") is included in the appendices.

— — —

Question: What are **government/quasi-government corporations**?

Answer: These type of corporations have a mix of private and public characteristics. Possible forms of corporate organization include government ownership of all or part of the equity, and government sponsorship through some form of financial backing. They differ from ordinary agencies in their budgeting methods, their rights to operate as an independent entity, and their forms of governance.

Example: The Virginia Port Authority is a corporation owned entirely by the state, run by a Board of Commissioners appointed by the Governor, financed by user fees, and included in the Appropriation Act.

— — —

Question: What is a **government-owned contractor-operated (GOCO)** facility?

Answer: In contrast to a typical public sector facility which is owned and operated by the government, a GOCO facility is owned by the government but run by a private sector firm pursuant to a management and operations contract.

Example: Many sport coliseums are built with public funds and then managed and operated by private firms that specialize in securing both sport and other events for the facility.

— — —

Question: What is an **inherently governmental activity**?

Answer: An inherently governmental activity is one that is so intimately related to the public interest as to mandate performance by state employees. Activities that meet this criteria are not in competition with a *commercial source*.

Example: State police patrols are inherently governmental activities.

— — —

Question: How does a **lease-develop-operate (LDO)** transaction work?

Answer: In a LDO transaction, the state would lease a facility and surrounding land to a private developer. The state enters into a long-term agreement to expand and develop the facility under a contract which calls for revenue sharing between the developer and the state.

Example: The state with a run-down facility enters into a long-term lease with a private developer of property surrounding the facility which allows the developer to develop and operate a retail complex near the facility. The project improves the facility, creates a tourist attraction, and generates tax revenues for the state.

— — —

Question: What is **lease-purchase financing**?

Answer: Lease-purchase financing is, in effect, the private securitizing of government installment purchase obligations. As lessee, the state makes scheduled payments, and equity in the equipment or facility being purchased accrues to the state with each payment. Typically, the state will own the equipment or facility at the end of the lease term when all payments have been made, however, title can transfer at an earlier time as the parties mutually agree.

Private investors purchase the state debt in the form of certificates of lease participation which offer returns that are exempt from federal taxation. This method of financing is used as a means of shifting responsibility for financing major equipment or facilities from the state to the private sector in situations where the essential nature of the purchase gives the lenders confidence that the state will make the necessary lease payments.

This type of transaction does not require voter approval as in a general obligation bond issue, but usually requires a non-appropriation clause in the transaction documents since the state cannot guarantee payments beyond the Appropriation Act in effect at the time of the transaction. Lease-purchase financing is also known as tax-exempt lease-purchase financing.

Example: A Department of Public Works enters into a lease-purchase agreement for the procurement of state-of-the-art electronic toll facilities, thereby shifting the responsibility for the financing and maintenance of the system to the private sector.

— — —

Question: How does **leveraged leasing** work?

Answer: In a leveraged leasing arrangement, the owner of a capital facility obtains the tax benefits of ownership of an asset by arranging debt financing and leasing the facility to a party who pays rent from revenues generated by the facility.

Example: A group of private investors borrows money to rehabilitate a highway and

convert it to a toll road, leasing the road to a separate toll road development firm. The lessee uses toll receipts to pay the rent, which the owner/investors use to service the debt, and the owner/investors take advantage of any available tax deductions and credits associated with ownership and debt repayment.

— — —

Question: What is a “**make or buy**” analysis?

Answer: A “make or buy” analysis is undertaken by a *state agency* to determine how much it costs to perform a function with state personnel as compared to contracting with an independent contractor from the private sector.

The *Cost Comparison Program (“COMPETE”)* is used to develop the *fully allocated cost* of a government function to compare the cost with a independent contractor. It is a step in the Council’s *competition process*.

A “make or buy” analysis is recommended for many *commercial activities* that are put out to bid or for which a RFP is requested. They may also be required from an *unsolicited proposal* pursuant to §§ 9-346 and 9-347 of the Code of Virginia.

An important purpose of a “make or buy” analysis is to introduce *managed competition* into performance of the function and to generate tax savings.

Example: A *state agency* develops the current *fully allocated cost* for the maintenance and operations of a major state facility and issues an RFP with a *performance work statement (PWS)* for private sector proposals. After scrutiny of its *fully allocated cost*, the agency also responds to the PWS in the RFP with its *most efficient organization (MEO)* proposal which may differ from its current approach to the task in question.

The cost of the MEO is compared against private sector proposals and the most cost-effective alternative is chosen.

— — —

Question: How does **managed competition** work?

Answer: Managed competition allows a *state agency* to compete with private sector providers for the right to perform public services which may or may not lead to *contracting out* for services. Based on a *performance work statement (PWS)* developed for private sector proposals, the state agency submits its *most efficient organization (MEO)* and corresponding cost estimate which will compete directly with the private sector proposals.

Example: This is an actual example. In 1978, the Department of Public Works in Phoenix, Arizona began to compete with private companies for the city's refuse collection business. After losing the first five bids for various refuse districts to private companies, the Department and its employees developed new *most efficient organizations (MEOs)* to its work which included better equipment, smaller crew sizes, redesigned routes, and performance incentives. As a result, it won back all five districts, the quality of services and worker morale improved, and costs to the city declined.

— — —

Question: What does **most efficient organization (MEO)** mean?

Answer: This is a term related to *managed competition*. It means the reengineered or reorganized organization that is proposed by a *state agency* to compete with the private sector to perform a *commercial activity*. It is based on the *performance work statement* in an RFP.

Example: The example described above in Phoenix, Arizona represents the approach to developing the most efficient organization.

— — —

Question: What is meant by **“mining the balance sheet”** ?

Answer: It is a term used to describe various methods of improving the financial status

of public or private sector organizations through transactions designed to extract untapped value existing in their assets.

Example: Examples of this approach as it applies to improving the state's financial picture include *asset sales*, *sale-leaseback* arrangements, and *wraparound additions*.

— — —

Question: What is a **natural monopoly**?

Answer: A natural monopoly is thought to exist because it offers the most efficient market structure and because a competitive market would create inefficiencies that would be detrimental to the public welfare. As a substitute for the discipline of the marketplace, and as a means of preventing predatory practices, natural monopolies are sometimes owned by the government and highly regulated in terms of operations, pricing, and profits.

Example: For years, child support enforcement was considered the province of government only. In recent years, however, competition has been introduced into the marketplace and now private companies compete for contracts with the states to run successful private child support enforcement offices meeting the regulatory requirements at attractive prices.

— — —

Question: What is **overhead** and why should it be considered in privatization/competition activities?

Answer: Overhead includes the indirect costs that are not directly attributable with performing a state service or producing goods. These indirect costs include depreciation, operations overhead, and general and administrative overhead which includes a number of supporting functions.

In comparing state costs with private sector costs, it is necessary to compute state overhead costs to ensure a level playing field with the private sector.

Details and the method of calculating overhead costs are found in the *Cost*

Comparison Program ("COMPETE") User's Manual. A sample program is included in the appendices.

— — —

Question: What is **outsourcing**?

Answer: Outsourcing is another term for *contracting out*.

— — —

Question: What are **performance-based contracting incentives**?

Answer: Performance-based contracting employs specifications and a statement of work which focus on the purpose of the work to be performed and allow the contractor latitude in the manner of performing it. Performance-based incentives are contract provisions calling for the imposition of positive consequences for good performance and negative consequences for poor performance by the contractor.

Example: An agency engages a private sector firm to provide custodial services using a contract which specifies the required tasks in broad performance terms and provides for payment based on cost-reimbursement plus an award fee that increases the contractor's compensation depending on the quality of the contractor's performance. Performance quality is judged by criteria including quality of work, responsiveness and productivity.

— — —

Question: What are **performance measures** and how do they relate to privatization?

Answer: Performance measures provide a series of indicators, expressed in qualitative, quantitative or other tangible terms, that indicate whether current performance is reasonable and cost effective. Performance measures can include workload and output-to-cost ratios, transaction ratios, cost per service unit of output, error rates, consumption rates, timeliness

measures, and completion and back order rates. Performance measurement in the field of providing public services represents an effort to improve the system by focusing on measurable results or outcomes rather than inputs. It can be used purely by *state agencies* or by private sector entities working for or in partnership with *state agencies*.

Example: Instead of deciding how much money it wants to spend on road maintenance and appropriating that amount of money to the Department of Public Works, the City Council sets measurable goals for various specific levels of road maintenance. The Department managers respond with a statement of what it will cost to achieve the specific goals, and the General Assembly decides what will be required. Performance measures can also be applied to private contractors working for state agencies in cases of *contracting out*.

The Council's *Cost Comparison Program ("COMPETE")* is a tool to determine the performance measure of the cost of a per unit of output.

— — —

Question: Is a **performance standard** different than a *performance measure*?

Answer: Yes. A performance standard reflects the minimum, sector-specific, requirement for the performance of a *commercial activity*. It incorporates both quality measures and cost measures. Cost measures reflect the cost comparability procedures in the *Cost Comparison Program "COMPETE"* to assure equity in the comparison of state performance standards with private sector standards.

Example: In developing the fully allocated cost of its payroll operations, a *state agency* determines that it costs an average of \$9.03 to issue a payroll check. The American Payroll Association indicates that its standard to issue a payroll check is \$7.65. This is an indication that the *state agency* should take appropriate action to provide this service at the lower per unit payroll cost.

— — —

Question: What is a **performance work statement (PWS)**?

Answer: A performance work statement is a statement of the technical, functional and

performance characteristics of the work to be performed. It identifies the essential functions to be performed, determines performance factors, the units of work, the quantity of work units, and the quality and timeliness of the work units. It serves as the scope of work in a RFP and is the basis for the cost comparison of providing the service by the state or by a *commercial source*.

— — —

Question: What are **private activity bonds (PABs)**?

Answer: See *qualified private activity bonds (PABs)*.

— — —

Question: What does the term **privatization/competition** really mean?

Answer: The Virginia Government Competition Act of 1995 (Title 9, Chapter 45, Code of Virginia) describes “privatization” as a variety of techniques and activities which promote more involvement of the private sector in providing services that have traditionally been provided by government. It also includes methods of providing a portion or all of select government-provided or government-produced programs and services through the private sector. Also see definition of *managed competition*.

Examples: Examples of activities occurring in Virginia state government include: the private construction, management and operations of select state prisons; private operations of select child support enforcement offices; and the asset sale of the Virginia Education Loan Authority to a private servicing firm.

— — —

Question: What is **public purpose debt**?

Answer: Public purpose debt is traditional debt used to finance a project intended to be of value to the general public. It can include ordinary government securities such as general obligation bonds or revenue bonds as well as *qualified private activity bonds (PABs)*. Numerous non-traditional examples used to finance public projects are included in this manual.

Example: A general obligation bond is the traditional finance method to build public schools. Another effective non-traditional method to finance the schools would be a *lease-purchase financing* transaction.

— — —

Question: What is a **public-local government partnership**?

Answer: A public-local government partnership occurs when several organizations in the public sector share a common interest with the state in the success of the venture. It is a joint venture in which state and local government resources are pooled in a joint effort.

Example: The Department of Health develops a community-based health education program with local governments in which the state and local governments share the cost of the program.

— — —

Question: What is a **public-private partnership**?

Answer: A public-private partnership is a partnership in which the state and the private sector share a common interest in the success of the venture. It is a joint venture in which state and private sources are pooled in a joint effort.

Examples: The public-private partnership between Virginia Correctional Enterprises and private firms yields benefits for all involved parties. State agencies are receiving more and better products and the prison inmates are receiving valuable training. The private firms are providing additional sales techniques and customers for the products and they are now able to compete in what previously was a state monopoly.

At the Department of Motor Vehicles, private auto dealerships are working directly with the Department to provide car sales information via computer, saving time and money for customers.

— — —

Question: What is a **public-private performance analysis**?

Answer: A public-private performance analysis is an important step in the *competition process* in order to determine whether a *commercial activity* should undergo competition with the private sector. §§ 9-346 and 9-347 of the Code of Virginia are the legislative cites to perform a public-private performance analysis.

A copy of a public-private performance analysis is included in the appendices.

— — —

Question: What are **qualified private activity bonds (PABs)**?

Answer: Qualified PABs are instruments of indebtedness which are exempt from federal taxation when they satisfy certain requirements of the Internal Revenue Code (IRC). They include bonds issued to finance the construction of certain public purpose facilities and infrastructure projects. The private activity bond regulations issued on January 10, 1997 by the IRS facilitate more utilization of *public-private partnerships* for projects with tax-exempt bonds.

The new IRS regulations on management contracts and *change in use* rules create new safe harbors providing assurance that private operation or ownership of a facility will not cause the bonds financing the facility to become taxable. The new rules create expansion of opportunities for the private sector to enter into long-term contracts to operate and manage state facilities or buy state assets.

Regulations and related revenue procedures regarding these rules are complex and legal counsel should be consulted regarding the procedures.

Example: The New Jersey Economic Development Authority provided \$100 million in tax-exempt financing for the private development of a water supply project serving three counties by using private activity bonds. The use of tax-exempt bonds resulted in millions of dollars in savings for the consumers.

— — —

Question: Is **quality assurance** a function of contract administration?

Answer: Yes. Quality assurance and performance reviews are contract administration methods by which state management will supervise in-house or contract performance to ensure that the *performance standards* in the *performance work statement (PWS)* are met within the costs proposed. Quality assurance and performance reviews are an integral part of the monitoring step in the Council's *competition process*. The cost associated with contract administration is included in the *Cost Comparison Program ("COMPETE")*.

— — —

Question: What does the term **qualified use** mean?

Answer: A qualified use is any use of the proceeds of an issue of state or local bonds which satisfies all the requirements of the Internal Revenue Code. Refer to *qualified private activity bonds (PABs)*.

— — —

Question: What is the purpose behind **regulation of user charges and rates of return**?

Answer: A private developer of a project used for public purposes will want to have maximum flexibility in determining user charges in order to maximize the rate of return on investment. In order to prevent certain pricing practices which might be considered by the public to be an unfair use of a monopoly franchise, or in order to encourage certain types of use, the state may limit the developer's ability to set user charges, or may limit the permitted rate of return to an amount sufficient to ensure the financial viability of the project.

Example: As part of a transaction granting a private franchise to build and operate a toll road, the state requires toll pricing which would encourage car pools, prohibit tolls above a certain price, and limit the overall rate of return to a certain percentage above which profits are returned to the state.

— — —

Question: What is **risk unbundling**?

Answer: Risk unbundling is a means of facilitating the development of *public-private partnerships* for the development of capital improvement projects. It calls for the segregation of private and public risks with the private sector preferring to assume those risks which are commercial in nature and which can be appraised and controlled, and leaving the residual risks to the government.

— — —

Question: What is the purpose of **sale-leaseback** arrangements and how do they work?

Answer: Under a sale-leaseback arrangement, the owner of an existing asset sells the asset for needed cash to another party who leases the asset back to the seller. If the owner is the state and the buyer is a taxable entity, the buyer can take advantage of certain advantages which accompany ownership. The new owner will often finance the purchase with long-term debt secured by the lease from the state.

Example: The state sells an underutilized building to a private developer who renovates it and leases it back to the state. The state receives cash from the sale of the building, tax revenues generated from private ownership, and the private developer capitalizes the building and gets the tax advantages of depreciation on the building.

— — —

Question: What is a **service contract**?

Answer: A service contract is a means of financing facilities or equipment used for a public purpose. Pursuant to such a contract, a private firm will provide a facility or equipment to the state for its use in return for agreed compensation. Unlike a *build-operate-transfer (BOT)* transaction or a *lease-purchase financing* arrangement which shifts title to the state, the contract resembles a *build-own-operate (BOO)* transaction and makes no provision for

the transfer of title to the state. Advantages to the state include treating contract payments as operating expenses rather than long-term debt, and avoiding a voter referendum. The private firm retains tax benefits associated with ownership.

Example: A private developer enters into contract with the Hampton Roads Sanitation District to provide water storage space. To fulfill the terms of the agreement, the developer designs and builds a water tower designed to be suitable for other commercial purposes when the term of the service contract expires. The District's payments are based on the cubic feet of water stored in the tower. At the end of the term, the parties could negotiate an arm's length agreement for the sale of the tower based on its fair market value.

— — —

Question: What does **service shedding** mean?

Answer: Service shedding means the state stops providing the service leaving it entirely to the private sector. It is similar to a *spin-off*, or getting out of the business.

Example: The Commonwealth of Virginia sold the assets of the Virginia Education Loan Authority (VELA) for \$59.3 million. The trends in the student loan marketing business rendered VELA as redundant.

VELA, which had made guaranteed student loans to Virginia residents, was sold to Sallie Mae, a federal government corporation. The proceeds of the sale were deposited in the General Fund of the Commonwealth.

— — —

Question: What is a **spin-off** ?

Answer: In the context of privatization/competition, a spin-off is a financial transaction that turns a government function over to the private sector through *corporatization*. This approach to privatization/competition is most feasible when there are users who create a market demand for the function and have the ability to pay for it.

A spin-off is similar to *service shedding*. As stated in the executive summary of the Commonwealth Competition Council's 1996 Annual Report to the Governor and General Assembly, "if the business function or service is not or cannot remain competitive, *service shedding* is implemented through abolishment, *consolidation*, *outsourcing* to other private entities, sale, or spin-off of the operation."

Example: The U. S. Enrichment Corporation was created as a government corporation with all its common stock held by the U. S. Government. Through a public offering of the stock, the government did a spin-off and privatized the corporation.

— — —

Question: What is the definition of a **state agency** in the Commonwealth of Virginia?

Answer: The Virginia Government Competition Act of 1995 (Title 9, Chapter 45, Code of Virginia) defines a state agency as any board, council, authority, department, agency, or institution of the Commonwealth which employs state or nonstate personnel.

— — —

Question: What is the **third sector**?

Answer: The third sector, which is also called the *voluntary sector*, is a concept used to refer to that portion of society which is made up of voluntary and nonprofit organizations as opposed to government agencies and private firms that are for profit. Because the mission of third sector organizations is to meet social needs rather than to accumulate wealth, they can often be used instead of the private sector as a substitute for the government in providing needed goods and services.

— — —

Question: What is an **unsolicited proposal**?

Answer: An unsolicited proposal is a proposal voluntarily submitted from a private firm

that believes it can offer its *commercial activity* more cost-effectively, efficiently, or with improved quality than the same service provided by a *state agency*. It is not a proposal submitted in response to an official Request for Proposals. Unsolicited proposals are treated pursuant to § 9-346 of the Code of Virginia.

— — —

Question: What is the **voluntary sector**?

Answer: The voluntary sector is another term for the *third sector*.

— — —

Question: What are **vouchers** and what can they be used for?

Answer: Vouchers are government financial subsidies given to individual citizens for use in purchasing or paying for specific goods or services from the private or public sector.

Example: A frequent use of vouchers is in the field of elementary and secondary education. Instead of providing one system of public schools for the taxpayers, state government could issue vouchers which could be used toward a variety of school choices.

— — —

Question: What is a **wraparound** addition?

Answer: In the case of a wraparound addition, the government owns a facility which is to be expanded. As part of the expansion, the builder of the new addition receives title to the addition as well as a contract to operate the entire facility.

Example: A municipal water authority contracts with a private party to construct additional facilities at its waste water treatment plant. The contractor keeps title to the new addition to the plant and manages plant operations as part of the overall transaction.

APPENDIX A

Commercial Activities Competitive Government Opportunities

APPENDIX A

Commercial Activities - Competitive Government Opportunities

Administrative/General Activities

Accounts Receivable Services	Electronic Creation of Records
Accounting, Audit & EDP Audit Services	Electronic Payment Processing
Advertising/Public Relations	Employee Arbitration Services
Apprenticeship Training	Employee Benefits Administration
Architectural Services	Employee Insurance Benefits
Art & Graphics Services	Engineering Services
Auction Services	Environmental Samples Testing
Billing Services	Environmental & Pollution Inspections
Boiler Inspections	Erosion Advisory Services
Budget Bill Data Entry	Facility Maintenance
Building Code Compliance Reviews	Fire Prevention & Protection Services
Building Construction Inspections	Fire Tower Maintenance
Building Construction Management	Fleet Operations & Maintenance (Motor Vehicles)
Building Inspections (general)	Food Service Operations
Central Stores Operations	Geographic Information Network Services
Check Indexing & Retrieval	Grounds Maintenance
Check Processing & Distribution	Health Screening of Employees
Check Reconciliation	Investment Operations
Civil Service Arbitration/Mediation	Job Placement Services
Conference Management	Laboratory Services
Courier Services (bank)	Landscape Maintenance & Management
Courier Services (other)	Legal Services
Court Reporting	Mail Room Services
Crime Detection Investigations	Mediation Training
Custodial/Housekeeping Services	Microfilming
Debt Collection	

Administrative/General Activities

Moving Services	Warehouse Operations - Food Services
Organic & Pesticide Analyses	Warehouse Operations - Central Stores
Parking Management Services	Warehouse Operations - Trucking & Delivery
Payroll Processing Services	Water & Wastewater Analytical Services
Photography Services	Workers' Compensation Administration
Personnel/Contractor Background Investigations & Security Clearances	Workers' Compensation Claims Processing
Pest Control	
Printing & Copy Center Services	
Professional Development Training	
Professional Examinations & Licensing	
Publications & Design	
Real Property Management & Disposal	
Records Transcription	
Regulatory Review & Support Services	
Remodeling & Small Construction	
Risk Management Administration	
Risk Management Claims Processing	
Safety Training	
Security Services	
Snow Removal	
Specialized Skills Training	
Tax Collection Data Entry	
Technical Consulting Services	
Temporary Employment Services	
Title Searches	
Trash Disposal	
Travel Management Services	
Undeveloped state-owned land	
Value Engineering Services	
Veterans' Homes/Care Centers	

Education Agency Activities

Accounts Receivable Services	Food Service Operations
Accounting, Audit & EDP Audit Services	Grounds Maintenance
Advertising & Public Relations	Housekeeping & Residential Services
Air Charter Services	Landscape Maintenance & Management
Architectural Services	Laundry/Linen Services
Art & Graphics Services	Legal Services
Auctioneer Services	Mail Room Services
Billing Services	Microfilming Services
Bookshops	Museums and/or museum gift shops
Bookstore Operations	Parking Management Services
Bus Transportation	Payroll Processing Services
Building Construction Management	Pest Control
Central Stores Operations	Photography Services
Check Processing	Power Plant Management
Counseling Services	Printing & Copy Center Services
Courier Services (bank)	Professional Development Training
Courier Services (other)	Publications & Design
Custodial Services	Research & Development
Debit Card Services	Security Services
Debt Collection	Snow Removal
Dormitory Management	Specialized Schools
Educational Conferences	Student Health Services
Engineering Services	Student Loan Processing
Environmental Inspections	Technical Consulting Services
Facility Maintenance	Trash Disposal
Facility Management (Stadiums, Athletic/Recreational Centers)	Travel Management Services
Financial Services	Veterinary Services
Fire Prevention & Protection Services	Warehouse Operations - Food Services
Fleet Operations & Maintenance	Warehouse Operations - Central Stores
	Warehouse Operations - Trucking & Delivery

Health Agencies and Medical Center Activities

Accounts Receivable Services	Hospital Management Operations
Accounting, Audit & EDP Audit Services	Injury Prevention Services
Adaptive & Assistive Technology	Laundry/Linen Services
Advertising & Public Relations	Legal Services
Air Charter Services	Laboratory Services
Architectural Services	Mail Room Services
Billing Services	Managed Care Programs
Centers for Independent Living	Medicaid Claims Processing
Check Processing	Medicaid Fraud Investigations
Clinics & Dispensaries	Medical Claims Processing
Courier Services (bank)	Medical & Medicaid Audits
Courier Services (other)	Medical Recordkeeping
Court Reporting	Nursing Services
Custodial Services	Nutritional Care
Debt Collection	Occupational Health
Dental Care	Orthopedic Services
Dental Laboratories	Outreach Services
Domestic Violence Services	Payroll Processing Services
Drug & Substance Abuse Treatment	Pediatric Care
Environmental Inspections	Pest Control
Environmental Health Services	Pharmacy Services
Environmental Samples Testing	Physical Therapy Services
Facility Maintenance	Power Plant Management
Family Planning Services	Prescription Drug Rebate Processing
Fire Prevention & Protection Services	Printing & Copy Center Services
Fleet Operations & Maintenance	Professional Development Training
Food Service Operations	Protection & Advocacy Programs
Grounds Maintenance	Psychologist Services
Health Screening of Employees	Publications & Design
Home Health Services	Radiology Services

Health Agencies and Medical Center Activities

Recreational Services
Research & Development
Security Services
Snow Removal
Speech Pathology & Therapy
Transportation & Travel Management
Trash Disposal
Vocational Rehabilitation
Warehouse Operations - Food Services
Warehouse Operations - Central Stores
Warehouse Operations - Trucking & Delivery
X-Ray Services

Information Systems Management Activities

Audio & Video Teleconferencing
Customer Printed Outputs
Data Center Facilities Management
Data Collection & Processing (batch processing, time sharing etc.)
Data Entry & Transmission Services
Equipment Installation, Operations, and Maintenance
Help Desk
LAN Management
Off-Site Computer Tape Vaulting
Radio Licensing
Reports Delivery
Software Development

Programming Services
Systems Engineering and Installation
Technical Consulting
Telephone Operator Services
Teleprocessing and Telecommunications
Consulting & Engineering
Website Development & Maintenance

Systems Design, Development and

Mental Health Agency Activities

Accounts Receivable Services	Grounds Maintenance
Accounting, Audit & EDP Audit Services	Health Screening of Employees
Adaptive & Assistive Technology	Injury Prevention Services
Advertising & Public Relations	Laundry/Linen Services
Architectural Services	Legal Services
Billing Services	Laboratory Services
Case Management Services	Mail Room Services
Central Stores Operations	Medicaid Claims Processing
Check Processing	Medicaid Fraud Investigations
Clinics & Dispensaries	Medical Claims Processing
Community Living Support Services	Medical & Medicaid Audits
Courier Services (bank)	Medical Recordkeeping
Courier Services (other)	Medical Services
Court Reporting	Nursing Services
Custodial Services	Nutritional Care
Debt Collection	Occupational Health
Dental Services	Orthopedic Health
Developmentally Disabled Services	Outreach Services
Domestic Violence Services	Patient Educational Services
Drug & Substance Abuse Treatment	Parent Support & Advocacy
Education Services for Patients	Payroll Processing Services
Engineering Services	Pediatric Care Services
Environmental Inspections	Pest Control
Environmental Health Services	Pharmacy Services
Facility Maintenance	Physical Therapy Services
Facility Management	Power Plant Management
Family Planning Services	Prescription Drug Rebate Processing
Fire Prevention & Protection Services	Printing & Copy Center Services
Fleet Operations & Maintenance	Professional Development Training
Food Service Operations	Protection & Advocacy Programs

Mental Health Agency Activities

Psychiatric Services	Warehouse Operations - Food Service
Psychologist Services	Warehouse Operations - Central Stores
Publications and Design	Warehouse Operations - Trucking & Delivery
Radiology Services	X-ray Services
Recreational Services	Youth Group Homes
Security Services	Youth Services
Snow Removal	
Specialized Foster Care	
Speech Pathology & Therapy	
Transportation & Ambulance Services	
Trash Disposal	
Travel Management	
Vocational Rehabilitation	

Natural Resource Agency Activities

Air Emission Program Services
Environmental Engineering Services
Environmental Health Inspections
Facilities Reservations
Fisheries Management
Laboratory Services
Parks & Camps Management
Refuse Collection & Disposal
Snow Removal
Storage Tank Reimbursement Programs
Surveying, Mapping, & Aerial
 Photography Services
Tree Nursery Management
Vehicle Scrappage
Waste Tire Management

Social Service Agency Activities

Accounts Receivable Services	Legal Services
Accounting, Audit & EDP Audit Services	Locate Absentee Parents
Adoption Programs	Mail Room Services
Advertising & Public Relations	Mediation Training
Advocacy Programs	Medical Claim Payments
Art & Graphics Services	Printing & Copy Center Services
Billing Services	Professional Development Training
Central Stores Operations	Programs for the Elderly
Check Indexing & Retrieval	Publications & Design
Child Care Programs	Records Transcription
Child Welfare Services	Security Services
Child Development Centers	Services for the Disabled
Child Support Enforcement Services	Specialized Skills Training
Client Assessment/Evaluation Services	Transportation of Clients
Courier Services (bank)	Travel Management
Courier Services (other)	Welfare to Work Programs
Court Reporting	
Crime Detection Investigations	
Custodial Services	
Day Care Programs	
Debt Collection	
Drug & Substance Abuse Treatment	
Educational Services	
Electronic Payment Processing	
Employment Assistance Services	
Family Assistance Services	
Family Planning Services	
Food Service Operations	
Food Stamp Assistance	
Foster Care & Adoption Services	
Home Study Programs	
Independent Living Support Services	

Public Safety Agency Activities

Accounting, Audit & EDP Audit Services	Laundry/Linen Services
Advertising & Public Relations	Legal Services
Air Ambulance Services	Mail Room Services
Air Charter Services	Medical Services
Architectural Services	Mental Health Services
Art & Graphics Services	Nursing Services
Central Stores Operations	Payroll Services
Correctional Education Services	Personnel Background Investigations
Courier Services (bank)	Pest Control
Courier Services (other)	Pharmacy Services
Court Reporting	"PIEA" Products (VCE)
Crime Detection Investigations	Printing & Copy Center Services
Custodial/Housekeeping Services	Prison Construction
Debt Collection	Prison Management
Dental Services	Prison Reentry Facilities
DNA Testing	Professional Development Training
Drug & Substance Abuse Treatment	Public-Private Partnership Products (VCE)
Engineering Services	Publications & Design
Equipping Patrol Vehicles	Records Transcription
Facility Maintenance	Snow Removal
Fire Prevention & Protection Services	Transportation of Prisoners
Fire Service Training	Trash Disposal
Fleet Operations & Maintenance	Warehouse Operations - Food Services
Food Service Operations	Warehouse Operations - Central Stores
Grounds Maintenance	Warehouse Operations - Trucking & Delivery
Halfway Houses	Work Release Programs
Health Screening of Employees	
Helicopter Charter/Management Services	
Juvenile Boot Camps	
Juvenile Correctional Centers	

Juvenile Work Camps

Transportation Agency Activities

Accounts Receivable Services	Legal Services
Accounting, Audit & EDP Audit Services	Mail Room Services
Advertising & Public Relations	Map Sales
Aerial Photography	Mapping & Charting Services
Aircraft Maintenance	Maintenance of Aeronautical Equipment
Airport Management	Motor Vehicle Registry
Architectural Services	Motor/Trip Pool Operations & Maintenance
Art & Graphics Services	On-site Vehicle Inspections
Bridge Operations	Pavement Analysis Management
Bridge Safety Inspections	Pest Control
Courier Services (bank)	Port & Terminal Operations
Courier Services (other)	Printing & Copy Center Services
Custodial Services	Professional Development Training
Debt Collection	Publications & Design
Driver Improvement Programs	Records Transcription
Electronic & Communications	Rest Area Operations/Management
Equipment Maintenance	Road Striping
Facility Maintenance	Security Services
Fire Prevention & Protection Services	Snow Removal
Fleet Operations & Maintenance	Surveying Services
Food Service Operations	Tire Management
Geological Surveys	Toll Collections
Grounds Maintenance	Trash Disposal
Grass Cutting	Travel Management Services
Helicopter Service	Value Engineering
Highway Design Services	Warehouse Operations - Central Stores
Highway Inspections	Warehouse Operations - Parts Inventory
Highway Maintenance	Warehouse Operations - Trucking & Delivery
Highway Signs Manufacturing	Weigh Station Management
Insurance Monitoring	Welcome Center Management
Landscaping Services	

APPENDIX B

Competition Process

<http://www.egovcompetition.com/process.htm>

APPENDIX C

Public-Private Performance Analysis ¹

¹ Refer to Appendix D for a compendium of options resulting from a public-private performance analysis and a fully allocated cost comparison

**Commonwealth of Virginia
Commonwealth Competition Council**

Public/Private Performance Analysis Submittal

Agency Name		Code	
Agency Address			
Telephone		Fax	
Date of Submittal			

Description of function or activity under consideration

Code of <i>Virginia</i> statute establishing this agency/institution:	§§
	§§

Funding source and percent of funding for this function/activity:

General % Federal % Special Revenue %

Other (please specify): _____ %

Cite item number(s) of the current Appropriation Act: _____ (19)

Signature of Preparer: _____

Printed Name _____

Title _____

Date _____

Signature of Reviewer: _____

Printed Name _____

Title _____

Date _____

Signature of Agency Head or Head of Institution:		Recommended for competition	
Printed Name	_____	Yes	No
Title	_____		
Date	_____		

Commonwealth of Virginia Commonwealth Competition Council

Public/Private Performance Analysis

Methodology to Evaluate Competition Opportunities

- Level 1** Three main steps to determine whether a function, task, operation or activity should undergo competition with the private sector:
- I. Analyze the potential for competition
 - II. Estimate the cost of the activity to the government
 - III. Consider the public policy issues best serving the public safety and welfare of Virginia citizens

- Level 2** Two steps in planning and implementing the competitive process:
- IV. Plan the necessary procedures
 - V. Implementation

These steps should be viewed as guides to assess competition opportunities. Not all questions, factors or analysis are applicable to every analysis. At the conclusion of each step, if the review of the activity continues to lend itself to a competitive effort, it is appropriate to proceed to the next step. If this is not the case, the reason(s) that would prohibit continued evaluation must be provided at the end of Level 1.

Level 1

I. Analyze the Potential for Competition

The objective of this analysis is to assess whether the specific activity lends itself to competition.

The questions and factors below are general in nature and are meant to ascertain whether more specific and serious analysis is warranted. The responses to these questions should be "yes" in order to proceed further for more serious evaluation. However, a "no" to one of the questions does not necessarily preclude going forward, but special consideration(s) may be required to assure success.

PLEASE CHECK THE APPROPRIATE ANSWER FOR THE FOLLOWING QUESTIONS:

	Yes	No
1. Can the service be, or is it already, available from the private sector?		
2. Is there more than one private contractor capable and interested in providing the activity to ensure competition?		
3. Can the activity or function be specified in advance with clear objectives and outcomes?		
4. Can the delivery of the activity be measured adequately to monitor performance?		
5. Is the economical delivery of the service more important than control and/or accountability?		
6. Would the funds/revenues presently available continue to be available if the private sector performs the activity?		
7. Can the private sector implement and deliver the activity quicker?		
8. Does the agency/institution have the ability and resources to manage/control/regulate the contract?		
9. Is the total function /activity suitable for contracting out?		
10. Are there current legal or regulatory barriers to contracting out the service?		
11. Will the agency/institution submit a proposal to perform the service?		

Provide explanation for negative answers in Section I above by specific number:

--

Level 1

II. Estimate the Cost of the Activity to the Government

The objective of this section is to determine what it costs government to perform the activity and what future costs government can avoid by transferring the activity to the private sector during the course of the proposed contract.

Please provide estimated costs of the government activity for the base contract plus all option years for the following categories:

- personnel costs (full and part-time positions, including salaries, overtime, fringe benefits, etc.)
- operating costs (repairs and maintenance, vehicles, equipment, rent, utilities, materials and supplies, travel)
- capital costs (present and anticipated)
- capital leases
- insurance/liability costs
- operations overhead¹ costs
- general and administrative overhead² costs
- any other costs related to providing the service not included above

Total estimated government costs for base year plus option years:

Cost Category	State Performance Costs	Contract Administration and Support Costs ³	Future Costs Eliminated If Activity Transferred To Private Sector
Personnel costs			
Operating costs			
Capital costs			
Capital leases			
Insurance/liability costs			
Operations overhead ¹			
General and administrative overhead ²			
Any other costs related to providing the service not included above			
Total	0	0	0

Estimated contractor cost to provide service for base contract plus all option years

\$

¹Operations overhead is the cost incurred in support of the function by the supervisory workforce **one level** above the studied function.

²These are support costs, other than operations overhead, incurred in the support of the studied function. Examples are accounting functions, human resources, data processing and procurement.

³Estimated costs to assure contract compliance (contract payments, reviewing contract compliance).

Level 1

III. Consider the public policy issues best serving the public safety and welfare of Virginia citizens

The objective of this analysis is to determine if the services can be transferred to the private sector without public harm. The evaluation should address the following issues:

	Yes	No
1. Can the private contractor be replaced relatively easily during the term of the contract?	<input type="checkbox"/>	<input type="checkbox"/>
2. Is the economical delivery of the service more important than control and/or accountability?	<input type="checkbox"/>	<input type="checkbox"/>
3. Can the contract provide for the transfer of liability/or risk?	<input type="checkbox"/>	<input type="checkbox"/>
4. Is the public safety and/or welfare of the citizens protected in case of default?	<input type="checkbox"/>	<input type="checkbox"/>
5. Is the proposed privatization activity consistent with State law, rules and regulations?	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the total function suitable for competition with the private sector?	<input type="checkbox"/>	<input type="checkbox"/>
7. Has the service been successfully contracted out in other public entities? Please identify:_____	<input type="checkbox"/>	<input type="checkbox"/>

Detailed Explanation

Provide explanation for negative answers in Section III above by specific number:

--

If the function is not recommended for competition, please provide rationale and detailed explanation:

--

Level 2

The following are considerations in preparing the necessary procurement documents.

IV. Plan the Necessary Procedures

The objective of this step is for the agency to evaluate the parameters of the proposed competition. This evaluation should address issues such as:

- Timing
 - Are there issues raised from Level 1 that need to be resolved prior to proceeding?
 - Does the timing of the competition effort affect potential cost savings?
 - How long will it take to award a contract?
 - What is the specific time schedule required to implement the contract?
- Personnel
 - What is the transition plan if contracting out the function impacts on State employees?
 - Will current State employees have an opportunity to present a proposal?
 - Will the private vendor be required to offer the right of first refusal or absorb existing State employees?
 - Can internal reorganization and different management techniques accomplish the same or similar goal?
- Cost
 - Is there a savings goal, short and long-term, without which privatization will not be considered?
 - Have performance measures been developed for this activity?
- Agency Impact
 - Does the privatization of this activity affect other programs and responsibilities (for example, other State agencies, departments)?
 - Are there alternative public solutions?
- Other
 - What is the best way to structure the competition (lease, contract, sale, partnership, pilot program)?
 - What process will be put in place to take over activity in case the contractor fails?

Level 2

V. Implementation

- Prepare Request for Proposal (RFP) and/or prepare proposal specifications
- Conduct procurement
- Review RFP responses
- Evaluate technical, cost realism and management issues of private performance vs. public performance
- Establish quality assurance oversight procedure or implement most efficient government organization
- Prepare required transition plan

Identify and discuss any barriers or impediments identified in Level 2.

APPENDIX D

Public-Private Performance Analysis Compendium of Options

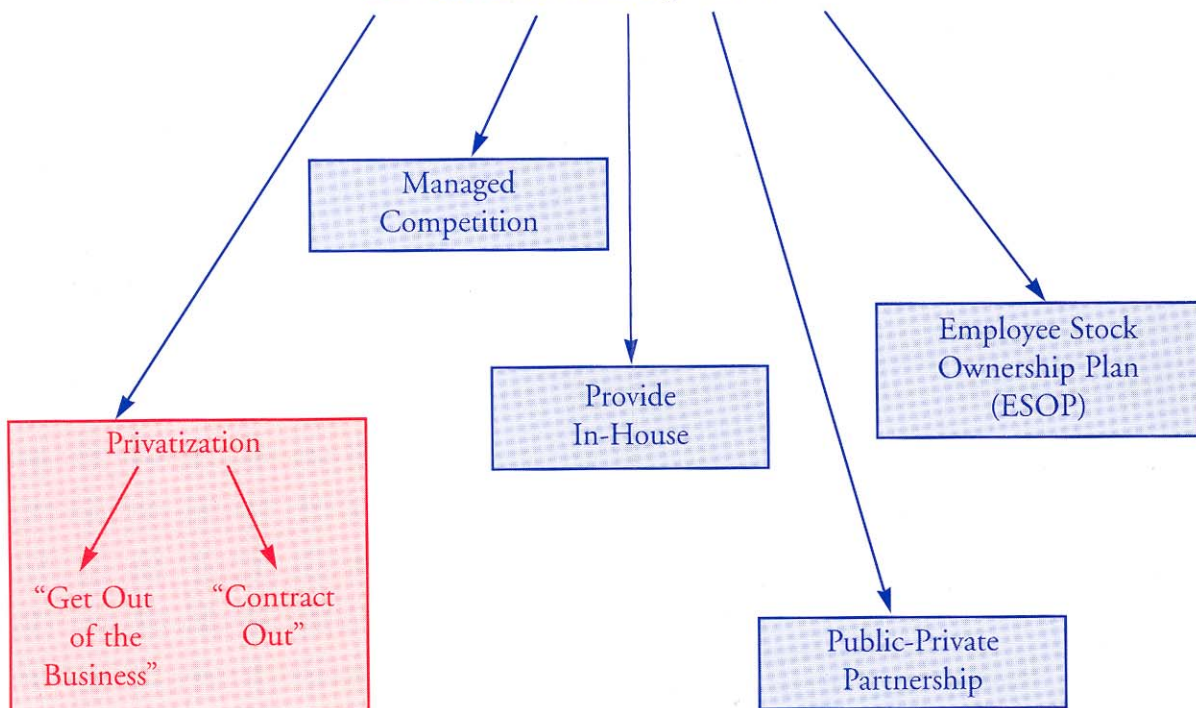
Commonwealth Competition Council

Public-Private Performance Analysis

The Public-Private Performance Analysis is one of the instruments used to formalize the decision process. It is the initial step to determine whether a function, operation, activity or service should undergo competition with the private sector.

The Governor or the General Assembly may direct any state agency to perform a public-private performance analysis covering any service for which the Council has received a qualifying unsolicited proposal from a private entity.

Services Provided By The State



APPENDIX E

Cost Comparison Program (“COMPETE”) ¹

- ¹ **Refer to agency “COMPETE” user’s manual for automated program (Program training is available by contacting the Commonwealth Competition Council)**

<http://www.egovcompetition.com/compete/>